

May 5, 1939

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## ARIZONA ATTORNEY GENERAL

Mr. T.J. Torrey,  
President, Arizona State Teachers College,  
Flagstaff, Arizona.

Dear Mr. Torrey:

You have requested an opinion as to the legality of Chapter 77, 1939 Session Laws, said bill being entitled "An Act making appropriation for the state fair and the state teachers college at Flagstaff."

Section 1 of the act contains the following items of appropriation: (a) The sum of \$100,000 is appropriated to the state fair commission, one-half to be expended for the state fair to be held in 1939 and one-half for the state fair to be held in 1940, provided however that not less than \$25,000 shall be set aside for premium awards each year; (b) the sum of all receipts of the state fair for general admissions, seating privileges, fees, concessions or otherwise are also appropriated to the state fair commission; (c) the sum of \$20,000 is appropriated to the state teachers college at Flagstaff.

Subdivisions (a) and (b) of Section 2 of the act provide that the appropriations mentioned in Section 1, Subdivision (a) shall not be used for any other purpose than the operation expense of the state fair; and that such appropriations are for the purpose of enabling the state fair commission to hold and conduct on such days not less than seven as it shall determine in the months of November or December of the years 1939 and 1940 respectively, a state fair which shall be devoted primarily to exhibiting the resources and products of this state.

Subdivision (c) of Section 2 with reference to the appropriation contained in Section 1 in the sum of \$20,000 to the state teachers college at Flagstaff provides:

"The appropriation set forth in section 1, subsection (c) is for the purpose of constructing and equipping cottage dormitories for the use of students of the state teachers college at Flagstaff and is conditioned upon the receipt of a grant or grants from an agency of the United States government in money, labor, materials or supplies amounting to not less than forty-five per cent of the total cost of said buildings and equipment; provided, however, that the revenues received from said cottages up to and including December 31, 1947, shall revert to the general fund."

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The question immediately arises as to whether or not the Act is in violation of Section 13, Part 2, Article IV of Arizona Constitution requiring that every Act shall embrace but one subject and matters connected therewith; and also in violation of Section 20, Part 2, Article IV of such Constitution which reads as follows:

"The general appropriation bill shall embrace nothing but appropriations for the different departments of the state, for State institutions, for public schools, and for interest on the public debt. All other appropriations shall be made by separate bills, each embracing but one subject."

There are a number of cases approving appropriations by a legislature contained in one bill other than the general appropriation bill, where each of such appropriations is germane or subsidiary to the main subject mentioned in the title. Within this principle, appropriations were upheld in the following cases: (1) Chapter 76, Session Laws of Arizona 1923, on the theory that all purported appropriations contained therein were connected with the general subject of construction and maintenance of public highways. *Black & White Taxicab Company v. Standard Oil Company*, 213 Pac. 139; (2) an Arkansas state authorizing the building of a state capitol upon the ground now occupied by the state penitentiary and making appropriation therefor and also authorizing the penitentiary board to procure new grounds and build a new penitentiary *State v. Sloan*, 66 Ark. 575, 74 Am. St. Rep. 106; (3) a California statute providing an appropriation to be expended in completing the construction, equipment and furnishings of state buildings in the City of Sacramento for state purposes, for laying out and beautifying the grounds, and also for the rearrangement of the state capitol building. *McClure v. Riley*, 243 Pac. 429 (Cal.); (4) a California statute providing for the purchase of land and erection of buildings for the agricultural school of the University of California, and among other things appropriating therefor money in two installments. *Regents of University of California v. Riley*, 250 Pac. 192 (Cal.).

The legislation in each of the cases cited was sustained as against the contention that there was a violation of the particular state constitution requiring but one item of appropriation in any special appropriation bill; but the legislation in each case was held valid because such appropriations were

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all connected with a single object and general subject. With respect, however, to Chapter 77, Session Laws of 1939 there are two separate and distinct subjects, which subjects are disclosed in the title of the Act as well as in the body of same. These subjects are: (1) Making appropriations to enable the state fair commission to conduct a state fair in the years 1939 and 1940, it being a fact of which the legislature had knowledge that for a number of years annual state fairs at Phoenix have not been conducted due to the refusal of the legislature to appropriate money therefor; (2) making an appropriation of \$20,000 for the state teachers college at Flagstaff for the purpose of constructing and equipping cottage dormitories for the use of students of the college and conditioned upon procuring a grant from some agency of the United States Government in money, labor, materials or supplies amounting to at least forty-five per cent of the total cost of the buildings and equipment; and the Act further goes into the subject of cottage dormitories at Flagstaff by providing that the revenues received from the cottages up to and including December 31, 1947 shall revert to the general fund of this state. In our opinion, conducting a state fair at Phoenix for the years 1939 and 1940 and constructing and equipping cottage dormitories at Flagstaff and disposing of the revenues therefrom embrace two alien subjects, and the Act violates not only Section 13, Part 2, Article IV of Arizona Constitution but also Section 20, Part 2, Article IV thereof requiring all appropriations not contained in the general appropriation bill to be made by separate bills each embracing but one subject. For these reasons it is our opinion that said Chapter 77 is unconstitutional and contains no valid appropriations.

Realizing the importance to this state of both of these items of appropriation, we feel that as a matter of justice to all parties concerned, attention should be called at this time to the manifest defects of this legislation in order that same may be remedied in any subsequent special session of the legislature should the same be included in the governor's call.

Trusting this opinion may be of some assistance in the matter, we are

Very truly yours,

JOE CONWAY  
Attorney General

LIN ORME, JR.,  
Assistant Attorney General

EARL ANDERSON, ✓  
Special Assistant  
Attorney General.